IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2559 OF 2006
IN
REVIEW PETITION NO.(STAMP NO.22) OF 2006
IN
NOTICE OF MOTION NO.2681 OF 2003
IN
SUIT NO.2199 OF 1992

Rekha Ashokkumar Bhatia — Petitioner (Orig.Def.No.2(a)

V/s.

Anil Hukumchand Bhatia & Ors. — ...Respondents (No.1 Orig.Plff. & Ors. Org.Defs.)

Shri.S.P. Dubey i/b. Prem S. Gidwani for Petitioner in support of Notice of Motion.
Shri.Sandip Shah for Respondents to show cause.

CORAM : S.A.BOBDE, J.
DATED : 15/02/2007

P.C.:-

1. Heard.

2. This is an application for condonation of delay for filing review petition for review of order dated 25th January, 2006 passed by the single Judge. Admittedly thereafter appeal was preferred which was

allowed to be withdrawn on 3rd May, 2006 by the Division Bench. Section 114 of the Civil Procedure Code reads as follows.

> "114. Subject as aforesaid, any person considering himself aggrieved-
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> (a) by a decree or order from which an appeal is allowed by this code, but from which no appeal has been preferred,
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> (b) by a decree or order from which no appeal is allowed by this Code, or
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> (c) by a decision on a reference from a Court of Small Causes,
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> may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon as it thinks fit."

3. The review petition itself, in respect of which condonation of delay is sought, is not tenable. Since an appeal was preferred in this case, the notice of motion is hereby dismissed.

(S.A.BOBDE, J.)